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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

In Re The Matter of:

United States' Petition for Summary
Enforcement and Costs Re: Civil
Investigative Demand No. EDWA 21-002

NO. 1:21-cv-3048

**DECLARATION
OF TYLER H.L. TORNABENE
IN SUPPORT OF
UNITED STATES' PETITION
FOR SUMMARY
ENFORCEMENT AND COSTS
RE: CIVIL INVESTIGATIVE
DEMAND No. EDWA 21-002**

**Declaration of Tyler H.L. Tornabene in Support of
the United States' Petition for Summary Enforcement and Costs
Re: Civil Investigative Demand No. EDWA 21-002**

I, Tyler H.L. Tornabene, declare as follows:

1. I am an Assistant United States Attorney (AUSA) with the United States Attorney's Office for the Eastern District of Washington and counsel for the United States in the above captioned matter. I have worked as an AUSA for over twelve years and during that time have focused almost exclusively on criminal and civil fraud cases including the investigation of suspected False Claims Act violations. I submit this declaration in support of the United States' Petition for Summary Enforcement and

DECLARATION OF TORNABENE IN SUPPORT OF UNITED STATES' PETITION FOR SUMMARY ENFORCEMENT AND COSTS - 1

Costs Re: Civil Investigative Demand No. EDWA 21-002.

2. I am familiar with this case as one of the assigned AUSAs to the False Claims Act investigation of Respondent Rick Gray. The statements herein are based on my personal knowledge.

3. Attached hereto are true and accurate copies of the following:

- **Exhibit 1:** Civil Investigative Demand No. EDWA 21-002¹;
- **Exhibit 2:** Transcript of sworn testimony of USDA OIG Special Agent Jason Gonzalez dated March 17, 2021;
- **Exhibit 3:** Email chain between AUSAs and attorney Timothy J. Carlson: March 10, 2021, to March 29, 2021; and
- **Exhibit 4:** The most recent written direction provided to Respondent Rick Gray pursuant to CID No. EDWA 21-002.

ISSUANCE AND SERVICE OF CID NO. EDWA 21-002

4. On February 24, 2021, the United States Attorney for the Eastern District of Washington issued CID No. EDWA 21-002 (herein also referred to as “the CID”) to Respondent Rick Gray. The CID is attached hereto as Exhibit 1. The CID was issued in connection with the False Claims Act investigation of Respondent Rick Gray regarding allegations that he knowingly submitted and caused to be submitted false and fraudulent claims and statements to the USDA Federal Crop Insurance Corporation (FCIC).

5. The CID was personally served on Respondent Rick Gray on March 10, 2021, by Special Agent Jason Gonzalez of the United States Department of Agriculture (USDA) Office of Inspector General (OIG). (*See* Exhibit 2).

¹ This is a copy of the same CID that is also referenced as Exhibit 1 within the transcript of sworn testimony of USDA OIG Special Agent Jason Gonzalez dated March 17, 2021, which itself is attached hereto as Exhibit 2.

1 6. The CID required that Respondent Rick Gray “give oral testimony under
2 oath, commencing seven (7) days from the date of receipt of this Demand, at 9:00
3 a.m., at the United States Attorney’s Office for the Eastern District of Washington,
4 920 W. Riverside Ave., Spokane, Washington 99201” (Exhibit 1).

5 7. Based on the March 10, 2021, day of service, seven days from
6 Respondent Rick Gray’s receipt of the CID was March 17, 2021.

7 8. When Special Agent Gonzalez personally served Respondent Rick Gray
8 on March 10, 2021, he explicitly told Respondent Rick Gray that under the CID
9 Respondent Rick Gray was required to appear in Spokane, Washington, as directed by
10 the CID, on March 17, 2021. (*See* Exhibit 2). At no time did Respondent Rick Gray
11 express any confusion as to the clear direction explicitly stated in the CID regarding
12 the date, time, and location of his oral testimony. (*See* Exhibit 2).

13 9. Later that day, after Respondent Rick Gray was personally served with the
14 CID, counsel for the United States received an email from attorney Timothy J. Carlson
15 acknowledging that his client, Respondent Rick Gray, was served with the CID. (*See*
16 Exhibit 3).

17 10. In subsequent email exchanges that same day, March 10, 2021, Mr.
18 Carlson requested to speak with counsel for the United States. (*See* Exhibit 3). Counsel
19 for the United States offered the afternoons of March 11th and 12th, or anytime on March
20 15th, as times to talk via phone with Mr. Carlson. (*Id.*). Counsel for the United States
21 also provided Mr. Carlson email contact information and cell phone contact
22 information to further facilitate making contact with counsel for Respondent Rick Gray
23 regarding the CID. (*Id.*). There does appear to have been any other attempt by
24 Respondent Rick Gray, counsel for Respondent Rick Gray, or anybody purporting to
25 act on behalf of Respondent Rick Gray, to contact the United States Attorney’s Office
26 for the Eastern District of Washington prior to 5:00 p.m. on March 17, 2021, although
27 Mr. Carlson did provide a response shortly after 5:00 p.m. that day. (*Id.*).

28 11. In his email shortly after 5:00 p.m. on March 17, 2021, Mr. Carlson does
DECLARATION OF TORNABENE IN SUPPORT OF UNITED STATES’
PETITION FOR SUMMARY ENFORCEMENT AND COSTS - 3

1 not express any confusion, either on his part or on Respondent Rick Gray's part, as to
2 when or where Respondent Rick Gray's oral testimony pursuant to the CID was to have
3 been. (*See Exhibit 3*).

4 12. At no time on or prior to March 17, 2021, did Respondent Rick Gray,
5 counsel for Respondent Rick Gray, or anybody purporting to act on behalf of
6 Respondent Rick Gray, request any alteration to the date, time, or location of
7 Respondent Rick Gray's oral testimony as required and directed pursuant to the CID.
8 (*See Exhibit 3*).

9 13. At no time did Respondent Rick Gray, counsel for Respondent Rick Gray,
10 or anybody purporting to act on behalf of Respondent Rick Gray, object to the
11 enforceability of the CID or to the date, time, or location of Respondent Rick Gray's
12 oral testimony as required and directed pursuant to the CID. (*See Exhibit 3*).

13 **UNITED STATES' INCURRED COSTS**
14 **AND ADDITIONAL COMMUNICATIONS**

15 14. As a result of Respondent Rick Gray's failure to appear as directed by the
16 CID to provide oral testimony under oath, and Respondent Rick Gray's lack of any
17 notice that he would not appear as directed, the United States incurred a total of
18 \$1,935.79 in costs, not including attorney costs, from the following sources in the
19 following amounts:

20 a. \$161.28 for the travel of USDA OIG Special Agent Jason Gonzalez to
21 and from the scheduled oral testimony of Respondent Rick Gray. This
22 amount is based on Special Agent Gonzalez's round trip mileage of
23 288 miles in a government vehicle from Richland, Washington where
24 he is based. This calculation uses the 2021 federal mileage rate of
25 \$0.56 per mile;

26 b. \$1,603.51 for the travel of Special Investigator Michael "Chris"
27 Treiber of the USDA Risk Management Agency to and from the
28 scheduled oral testimony of Respondent Rick Gray. This amount is

1 based on Special Investigator Treiber's travel costs, including round
2 trip airfare from San Luis Obispo, California, as he is based in that
3 area; and

4 c. \$171.00 in court reporter costs from Snover Court Reporting.

5 15. By email dated March 17, 2021, I informed Respondent Rick Gray,
6 through his counsel Mr. Carlson, that the United States would be seeking an order from
7 the Court imposing on Respondent Rick Gray the costs that were incurred because of
8 his failure to appear as directed by the CID. (*See Exhibit 3*). At that time I also
9 informed Mr. Carlson, for Respondent Rick Gray, that the United States would seek a
10 court order compelling Respondent Rick Gray's appearance to give oral testimony as
11 required by the CID. (*See Exhibit 3*).

12 16. Mr. Carlson, for Respondent Rick Gray, responded that Respondent Rick
13 Gray could be available to provide oral testimony pursuant to the CID the week of
14 April 12, 2021, provided it was after April 12th. (*See Exhibit 3*). Mr. Carlson, for
15 Respondent Rick Gray, advised that Respondent Rick Gray was seeking different
16 counsel to represent him in this matter and that any scheduling issues for such new
17 counsel were unknown. (*See Exhibit 3*). Mr. Carlson, for Respondent Rick Gray,
18 further advised that he would be willing to accept service of the instant petition but did
19 not intend to enter a notice of appearance on behalf of Respondent Rick Gray in this
20 matter. (*See Exhibit 3*).

21 17. Pursuant to the CID and in my capacity as assigned AUSA and a listed
22 False Claims Act investigator on the CID, I directed Respondent Rick Gray in writing
23 via email to Mr. Carlson, and what appears to be Respondent Rick Gray's email, that
24 Respondent Rick Gray is to be present to provide oral testimony under oath on April
25 15, 2021, at 9:00 a.m. in Room 116 of the Thomas S. Foley U.S. Courthouse located
26 at 920 W. Riverside Ave., Spokane, Washington 99201. (*Exhibit 4*).

27 //

28 //

GROUND FOR IMPOSING COSTS

23. I am aware of no time prior to, or even on March 17, 2021, in which Respondent Rick Gray made any request to the United States Attorney's Office for the Eastern District of Washington, the assigned case agent with USDA OIG, or anyone for the government associated with this investigation, for an alternate date, time, or location in which to provide oral testimony under oath pursuant to the CID.

24. At no time that I am aware of did Respondent Rick Gray make any objection to the United States Attorney's Office for the Eastern District of Washington, the assigned case agent with USDA OIG, or anyone for the government associated with this investigation, regarding the enforceability of the CID.

25. At no time that I am aware of did Respondent Rick Gray inform the United States Attorney's Office for the Eastern District of Washington, the assigned case agent with USDA OIG, or anyone for the government associated with this investigation, that he would not be appearing to provide oral testimony under oath on March 17, 2021, as directed by the CID.

26. The travel costs for Special Agent Gonzalez were reasonable expenses. Special Agent Gonzalez has experience in the investigation of fraud allegedly perpetrated on the many different programs and components of the USDA, which includes federal crop insurance.

27. Special Agent Gonzalez is the lead case agent in this False Claims Act Investigation and has been investigating this case since 2017. As a result, Special Agent Gonzalez reviewed and analyzed the many documents he has collected from third parties including: the USDA Risk Management Agency (RMA), which is responsible for administering the Federal Crop Insurance Corporation (FCIC); the Rural Community Insurance Company, the crop insurance company which paid Respondent Rick Gray over one million dollars in federally back crop insurance indemnity payments due to Respondent Rick Gray's allegedly false crop insurance loss claims; and records of Respondent Rick Gray's relevant crop sales.

1 28. Special Agent Gonzalez has also conducted multiple interviews of
2 witnesses, both within the federal government and outside the federal government, with
3 information relevant to this investigation.

4 29. As a result of his experience in investigating crop insurance fraud
5 allegations and his specific and detailed knowledge of the facts of the investigation of
6 Respondent Rick Gray's alleged crop insurance fraud, the travel costs of Special Agent
7 Gonzalez to the scheduled oral testimony was reasonable and is a common expense
8 incurred when taking oral testimony pursuant to a CID.

9 30. The travel costs for Special Investigator Michael "Chris" Treiber were
10 reasonable expenses. Special Investigator Treiber has worked for USDA RMA for 5
11 years and as a result has expertise in the administration of the FCIC, the process of
12 claims loss adjustment of federal crop insurance by federal crop insurers, and the
13 investigation of alleged crop insurance fraud. Special Investigator Treiber also has
14 experience with crop insurance loss claims for wheat, the crop at issue here. This
15 includes detailed knowledge of wheat farming practices in the Eastern District of
16 Washington.

17 31. Further, Special Investigator Treiber interviewed Respondent Rick Gray
18 regarding his farming practices and other matters directly relevant to the
19 investigation.

20 32. Special Investigator Treiber has been working directly with Special Agent
21 Gonzalez for 4 years investigating the allegations that Respondent Rick Gray
22 fraudulently obtained over one million dollars in crop insurance indemnity payments
23 between 2013 and 2016. This includes the review and analysis of the voluminous
24 documents obtained by USDA RMA and USDA OIG from the Rural Community
25 Insurance Company as well records of Respondent Rick Gray's relevant crop sales.
26 This also includes participating with Special Agent Gonzalez in the interview of
27 multiple witnesses, both within the federal government and outside the federal
28 government, with information relevant to this investigation.

1 33. As a result of his experience in the administration of the FCIC, the claims
2 loss adjustment process for crop insurance companies, wheat farming practices in the
3 Eastern District of Washington, as well as his experience investigating crop insurance
4 fraud allegations and his specific and detailed knowledge of the facts of the
5 investigation of Respondent Rick Gray's alleged crop insurance fraud, the expense of
6 the travel of Special Investigator Treiber was reasonable for the United States to incur.
7 Further, it is not uncommon to have an additional investigator and/or subject matter
8 expert present at oral testimony pursuant to a CID.

9 I declare under penalty of perjury that the foregoing is true and correct.

10 Executed this 31st day of March, 2021, at Spokane, Washington.

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Tyler H.L. Tornabene
Assistant U.S. Attorney
Eastern District of Washington

EXHIBIT 1

Civil Investigative Demand-Oral Testimony

**United States Attorney's Office for the
Eastern District of Washington
Spokane, WA 99201**

TO: Rick Gray
560 Crider Valley Road
Bickleton, WA

Civil Investigative
Demand EDWA 21-002

This Civil Investigative Demand is issued pursuant to the False Claims Act, 31 U.S.C. §§ 3729-3733, in the course of a False Claims Act investigation to determine whether there is or has been a violation of 31 U.S.C. § 3729. The False Claims Act investigation concerns allegations that you, and/or your company Gray Land & Livestock LLC, knowingly submitted and caused to be submitted false and fraudulent claims and statements to the United States Department of Agriculture (USDA) Federal Crop Insurance Corporation. Specifically, the False Claims Act investigation concerns allegations that you and/or your companies Gray Land & Livestock LLC and/or Gray Farms & Cattle Co. LLC and/or Gray Holdings LLC: (1) knowingly submitted false or fraudulent claims for crop insurance indemnification on crop insurance policies insured or re-insured by the Federal Crop Insurance Corporation for crop years 2013 through 2016 and crop years 2018 and 2019; and (2) that you and/or your companies Gray Land & Livestock LLC and/or Gray Farms & Cattle Co. LLC and/or Gray Holdings LLC knowingly made, used, or caused to be made or used false records or statements material to those false or fraudulent claims.

This Demand requires you to provide oral testimony to the Federal Government. This is the original of the Demand; no copies have been served on other parties. The information and documents provided in response to this Demand may be shared, used, and disclosed as provided by 31 U.S.C. § 3733.

A. Oral Testimony

You are required by this Demand to give oral testimony under oath, commencing seven (7) days from the date of receipt of this Demand, at 9:00 a.m., at the United States Attorney's Office for the Eastern District of Washington, 920 W. Riverside Ave., Spokane, Washington 99201, or at such time and in such other place as may be agreed upon by Mr. Tornabene or Mr. Fruchter and you. The testimony will be taken stenographically and also may be recorded audio-visually.

AUSAs Dan Fruchter and Tyler Tornabene are False Claims Act investigators who may conduct the examination, and the custodians to whom the transcript of the deposition will be delivered. Your attendance and testimony at the oral examination are necessary to the conduct of

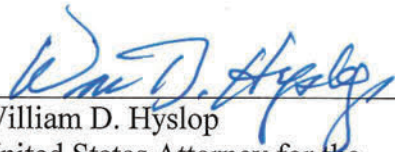
the False Claims Act investigation described above. You have the right to be accompanied by an attorney and any other personal representative at the oral examination.

The general purposes for which this Civil Investigative Demand is issued are to discover your knowledge, between 2013 and the present, of submissions of crop insurance indemnity claims by you and/or by or on behalf of Gray Land & Livestock LLC and/or Gray Farms & Cattle Co. LLC and/or Gray Holdings LLC to your crop insurance company(ies), including Rural Community Insurance Company, and through them to the Federal Crop Insurance Corporation. Specifically, the primary areas of inquiry identified below:

1. Your, and Gray Land & Livestock LLC's, farming operations between 2013 and the present.
2. Your and Gray Farms & Cattle Co. LLC's farming operations between 2013 and the present.
3. Your, and Gray Land & Livestock LLC's, and Gray Farms & Cattle Co. LLC and Gray Holdings LLC participation in the Federal Crop Insurance Program between 2013 and the present.
4. Your knowledge of your and/or Gray Land & Livestock LLC's and/or Gray Farm & Cattle Co. LLC's and/or Gray Holdings LLC's crop insurance policies from 2013 to the present, including your, and/or Gray Land & Livestock LLC's and/or Gray Farm & Cattle Co. LLC's and/or Gray Holdings LLC's crop insurance policies with Rural Community Insurance Company.
5. Your knowledge of and participation in the submission of any claims for indemnification on your, and/or Gray Land & Livestock LLC's and/or Gray Farm & Cattle Co. LLC's and/or Gray Holdings LLC's, crop insurance policies from 2013 to the present, including claims for indemnification on crop insurance policies with Rural Community Insurance Company.
6. Your and/or Gray Land & Livestock LLC's and/or Gray Farm & Cattle Co. LLC's and/or Gray Holdings LLC's business with Horse Heaven Grain including grain deliveries and storage.
7. Your and/or Gray Land & Livestock LLC's and/or Gray Farm & Cattle Co. LLC's and/or Gray Holdings LLC's business with Tri-Cities Grain including grain deliveries and storage.
8. Your, and/or Gray Land & Livestock LLC's and/or Gray Farm & Cattle Co. LLC's and/or Gray Holdings LLC's business with AgriNorthwest including grain deliveries and storage.
9. Your, and/or Gray Land & Livestock LLC's and/or Gray Farm & Cattle Co. LLC's and/or Gray Holdings LLC's business with Mid Columbia Producers Inc. including grain deliveries and storage.
10. Your knowledge of the receipt of Federal Crop Insurance Corporation

indemnification payments to you and/or Gray Land & Livestock LLC and/or Gray Farm & Cattle Co. LLC and/or Gray Holdings LLC.

Issued at Spokane, WA, this 24th day of February, 2021.



William D. Hyslop
United States Attorney for the
Eastern District of Washington

EXHIBIT 2

In The Matter Of:

Rick Gray

Proceedings of No-Show

Vol. I

March 17, 2021

Snover Court Reporting, Inc.

708 N. Argonne Rd., Ste 1B

Spokane Valley, WA 99212

Original File 031721 Proceedings.txt

Min-U-Script® with Word Index

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3 IN RE: RICK GRAY

Civil Investigative
Demand EDWA 21-002

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8 PROCEEDINGS RE SCHEDULED DEPOSITION OF RICK GRAY
9 Wednesday -- March 17, 2021
10 Pages 1 to 9
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12
13

14 Michael S. Kuplack, CCR

15 SNOVER COURT REPORTING

16 Professional Court Reporters

17 708 N. Argonne Road, Suite 1B

18 Spokane Valley, Washington 99212

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22
23
24
25

1 BE IT REMEMBERED that on the 17th day of March,
2 2021, at the hour of 9:19 a.m., proceedings were had
3 before Michael S. Kuplack, Notary Public, CCR No. 2750
4 (WA) / CSR No. 744 (ID), at the United States
Attorney's Office, 920 W. Riverside Avenue, Spokane,
Washington.

5 A P P E A R A N C E S

6 U.S. DEPARTMENT OF JUSTICE
7 UNITED STATES ATTORNEY'S OFFICE
8 By: Tyler H.L. Tornabene
Dan Fruchter
9 920 W. Riverside Avenue, Suite 340
P.O. Box 1494
10 Spokane, WA 99201
509.353.2767
11 tyler.h.l.tornabene@usdoj.gov
daniel.fruchter@usdoj.gov

12 USDA RISK MANAGEMENT AGENCY:
13 By: Chris Treiber

14 USDA OFFICE OF INSPECTOR GENERAL:
15 By: Jason Gonzalez
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I N D E X

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JASON GONZALEZ	
By Mr. Tornabene	5

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Proceedings of No-Show - Vol. I - March 17, 2021

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1 MR. TORNABENE: We are here this morning
2 pursuant to Civil Investigative Demand EDWA 21-002,
3 which is a CID, a civil investigative demand, that was
4 served on Rick Gray. Rick Gray is not present, nor is
5 his attorney, and it is 9:20 a.m. I'd ask that the
6 CID be marked as Exhibit Number 1.

7 (Thereupon, Exhibit Number 1 was marked for
8 identification.)

9 MR. TORNABENE: Present in the room here
10 today is myself, Assistant U.S. Attorney Tyler
11 Tornabene. I'm joined by Assistant U.S. Attorney
12 Daniel Fruchter. I'm also joined by Jason Gonzalez,
13 who is a special agent with the United States
14 Department of Agriculture, Office of Inspector
15 General; as well as Chris Treiber, who is a special
16 investigator with the USDA.

17 Agent Gonzalez served the CID, Exhibit
18 Number 1, on Mr. Gray, and although he's not under
19 oath, we want to put on the record a few facts here.
20 Actually, let's just swear him in, if we could.

21
22 JASON GONZALEZ,
23 called as a witness herein, having been first duly
24 sworn according to law, was examined and testified as
25 follows herein:

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1 EXAMINATION

2 BY MR. TORNABENE:

3 Q. Agent Gonzalez, you've seen Exhibit Number 1;
4 is that correct?

5 A. Yes.

6 Q. And that's the CID in this case?

7 A. Correct.

8 Q. And did you serve that on a Mr. Rick Gray?

9 A. I did.

10 Q. And when did you do that?

11 A. That would have been March 10th.

12 Q. So, a week ago today; is that right?

13 A. Correct.

14 Q. And describe for us the circumstances of how
15 and where you served Mr. Gray with the CID.

16 A. So, we served it at his address in Prosser. I
17 can't remember the address off the top of my head, but
18 it was 21509 I think it's Drav- -- Dravhoff, in
19 Prosser, Washington. Prior to serving it, I contacted
20 the Benton County Sheriff's Office and notified them
21 that I was going to be serving this at that address.

22 Myself and a fellow agent, Special Agent
23 Louis Stewart with USDA OIG, went to Mr. Gray's house,
24 knocked on the door. Mr. Gray answered the door. I
25 provided this to him, told him that he needed to be

Proceedings of No-Show - Vol. I - March 17, 2021

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1 here at the federal courthouse in Spokane the
2 following Wednesday, which would be today, March 17th.

3 Q. And you've had contact with Rick Gray
4 previously; is that right?

5 A. Yes.

6 Q. And so this was, in fact, Rick Gray?

7 A. Yes.

8 Q. Did Mr. Gray at that time make any statements
9 to you?

10 A. Not really. I told him that our criminal
11 investigation was almost over, and he said he didn't
12 know what I was talking about. Gave him this, told
13 him to be up here the following week and if he had any
14 questions, to have his attorney contact the U.S.
15 Attorney's Office. And he said okay, took the folder
16 with this inside of it and went back into his house.

17 Q. And so at no time did Mr. Gray express any
18 confusion as to the date or location of the CID
19 deposition?

20 A. No.

21 Q. All right. Thank you, Agent Gonzalez. Oh,
22 one final question. Did you have an opportunity to
23 check with the court security officers today to see if
24 Mr. Gray or his attorney had come to the federal
25 building today?

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1 A. Yeah. I don't know what his attorney looks
2 like, but I described Mr. Gray and asked them if
3 anyone matching his description had come into the
4 courthouse, and they said no one matching that
5 description had entered.

6 MR. TORNABENE: Thank you, Agent.

7 Additionally, on the record, we want to
8 put on the details of Tim Carlson. That is the
9 attorney who represents Mr. Gray. He had an e-mail
10 exchange with myself and AUSA Fruchter on March 10th.
11 In that e-mail exchange, he represented that he did in
12 fact represent Mr. Gray. He attempted to arrange a
13 time to speak with myself and AUSA Fruchter.
14 Potential times to talk were exchanged. Mr. Carlson
15 was not available for certain times. Mr. Fruchter
16 provided quite a number of options on different days,
17 on March 11th, March 12th, as well as March 15th,
18 where he or myself would be available to speak with
19 Mr. Carlson, and Mr. Fruchter also provided his cell
20 phone number to Mr. Carlson.

21 At no time did Mr. Carlson, in that
22 e-mail exchange or otherwise, request any change of
23 schedule for the deposition, nor question where it was
24 to happen or when it was to happen. And we've had no
25 further contact with Mr. Carlson since that e-mail

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1 exchange. There have been no phone calls placed. He
2 has not reached out to us in any way other than that.

3 (Discussion off the record between Messrs.
4 Tornabene and Fruchter.)

5 MR. TORNABENE: And Mr. Fruchter has
6 reminded me that, in that e-mail exchange, Mr. Carlson
7 acknowledged that he had received the CID and was
8 aware of it.

9 All right. I think that's all we have on
10 the record. Thank you.

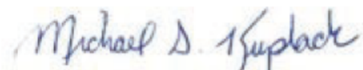
11 (9:26 a.m.)
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REPORTER'S CERTIFICATE

I, Michael S. Kuplack, a Certified Court Reporter
and a Notary Public in and for the State of
Washington, do hereby certify:

That the testimony and/or proceedings, a
transcript of which is attached, was given before me
at the time and place stated therein; that any and/or
all witness(es) were duly sworn to tell the truth;
that the sworn testimony and/or proceedings were by me
stenographically recorded and transcribed under my
supervision, to the best of my ability; that the
foregoing transcript contains a full, true, and
accurate record of all the sworn testimony and/or
proceedings given and occurring at the time and place
stated in the transcript; that I am in no way related
to any party to the matter, nor to any counsel, nor do
I have any financial interest in the event of the
cause.

WITNESS MY HAND AND SEAL THIS 17th day of March,
2021.



Michael S. Kuplack
CCR No. 2750
Notary Public in and for the
State of Washington, Spokane County.
Commission expires August 9, 2024.

	5:6	Dravhoff (1)	4:4,4,18;5:8,15,24;	matching (2)
A	cell (1)	5:18	6:3,6,8,17,24;7:2,9,12	7:3,4
	7:19	duly (1)	Gray's (1)	Messrs (1)
according (1)	certain (1)	4:23	5:23	8:3
4:24	7:15	E	H	morning (1)
acknowledged (1)	change (1)			4:1
8:7	7:22	EDWA (1)	happen (2)	myself (5)
Actually (1)	check (1)	4:2	7:24,24	4:10;5:22;7:10,13,
4:20	6:23	e-mail (5)	head (1)	18
Additionally (1)	Chris (1)	7:9,11,22,25;8:6	5:17	N
7:7	CID (7)	entered (1)	herein (2)	
address (3)	4:3,6,17;5:6,15;	7:5	4:23,25	needed (1)
5:16,17,21	6:18;8:7	EXAMINATION (1)	house (2)	5:25
agent (7)	circumstances (1)	5:1	5:23;6:16	nor (2)
4:13,17;5:3,22,22;	5:14	examined (1)	I	4:4;7:23
6:21;7:6	Civil (2)	4:24		notified (1)
ago (1)	4:2,3	exchange (5)	identification (1)	5:20
5:12	confusion (1)	7:10,11,22;8:1,6	4:8	Number (6)
Agriculture (1)	6:18	exchanged (1)	inside (1)	4:6,7,18;5:3;7:16,
4:14	contact (3)	7:14	6:16	20
almost (1)	6:3,14;7:25	Exhibit (4)	Inspector (1)	O
6:11	contacted (1)	4:6,7,17;5:3	4:14	
although (1)	5:19	express (1)	into (2)	oath (1)
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5:24	court (1)		6:11	5:17;8:3
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7:12	D	6:1,24		5:23
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6:15	6:18	final (1)	K	options (1)
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available (2)	Demand (2)	4:23	5:24	7:22
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EXHIBIT 3

From: Tornabene, Tyler H.L. (USAWAE)
 To: Tim Carlson; Fruchter, Daniel (USAWAE)
 Cc: Rick Gray
 Subject: RE: See Attached-Rick Gray
 Date: Monday, March 29, 2021 12:07:00 PM
 Attachments: image001.png
 image003.png

Tim

Glad we were able to touch base this morning. This email is to confirm your representation that you will accept service of our forthcoming Petition to Enforce and for Costs. We understand that by merely accepting service you do not intend to file a notice of appearance in this matter.

As stated on our call in our forthcoming petition we will request that the Court set Mr. Gray's oral testimony for Thursday April 15th at 9:00 am. As you'll see we will ask that it be again set in the Spokane Federal Building at 920 W. Riverside Ave. Spokane WA 99201.

As discussed we understand from you that Mr. Gray is seeking different counsel to represent him in this matter and that counsel may reach out to us regarding what date might work best the week of April 12th. Again please forward new counsel our emails and contact numbers which you already have. As stated we plan to file our petition tomorrow.

Thank you
 Tyler



Tyler H.L. Tornabene
 Assistant U.S. Attorney
 United States Attorney's Office
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From: Tornabene, Tyler H.L. (USAWAE)
 Sent: Friday, March 26, 2021 4:59 PM
 To: Tim Carlson <carlson@carlsonhinton.com>; Fruchter, Daniel (USAWAE) <DFruchter@usa.doj.gov>
 Cc: Rick Gray <grayfarmstrucking@spokanevalley.com>
 Subject: RE: See Attached-Rick Gray

Tim

We can be available for a call on Monday to discuss next steps regarding getting a date from the Court and the imposition of costs. To allow for us to confer prior to filing our petition we're willing to hold off on filing until Tuesday to see what if any agreements we can come to. For our conversation it would be most helpful if you could have the dates later in the week of the 12th that would be workable for Mr. Gray since he will then be back in town. That will still have given Mr. Gray over a month from the day he was served to obtain new counsel or additional counsel of his choice. If he chooses to retain new or additional counsel in this matter by Monday we would of course want to include that person in the conversation.

It looks like we're available for a call at 11:00 on Monday. Let us know if that works and we'll circulate a call-in.

Thank you
 Tyler



Tyler H.L. Tornabene
 Assistant U.S. Attorney
 United States Attorney's Office
 Eastern District of Washington
 920 West Riverside Avenue | Suite 540
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From: Tim Carlson <carlson@carlsonhinton.com>
 Sent: Friday, March 26, 2021 12:12 PM
 To: Tornabene, Tyler H.L. (USAWAE) <tornabene@usa.doj.gov>; Fruchter, Daniel (USAWAE) <DFruchter@usa.doj.gov>
 Cc: Rick Gray <grayfarmstrucking@spokanevalley.com>
 Subject: RE: See Attached-Rick Gray

Tyler

I am sorry for any confusion in this particular matter. The original date for the subpoena and interview came on rather quickly. I am helping Rick with another matter. I am not engaged to help them directly with regard to this matter. However, because of the fast time track we have not been able to find other counsel for him at this point. We have inquiries out to other lawyers to help them. I think that this is a serious enough matter where he should be represented by counsel familiar both with the subject matter and with the area of the law. That is not me.

Accordingly, we would ask that you work with us to reschedule the "deposition". Rick will not be available on April 12, 2021 because he is flying back to town that day. Like you he wants to get this matter past. He needs advice regarding the past subpoena and the date that he was to be available, including payment of the charges for the missed date. I think his confusion came and the fact that he thought we were going to be able to work with another attorney and get someone in contact with you to handle this matter. While that may be unacceptable from your side, it is a very legitimate reason for his not appearing due to miscommunication, perhaps arising from my communications with him. Obviously I do not want to get into a privilege conversation. This is been a very difficult time for Rick. He is trying to recover from the bankruptcy case. We will get back to you about the past charges.

We ask your patience in arranging for counsel. If it would help, I will try to keep you posted. We are talking to another lawyer on Monday. Obviously I cannot stop you from going to the court but would appreciate if you could give notice to me. If you want to talk about this by telephone I am happy to arrange a telephone conversation time to discuss it with you. Thank you in advance for your consideration.

Sincerely

Tim Carlson

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From: Tornabene Tyler H.L. (USAWAE) <Tyler.H.L.Tornabene@usdoj.gov>
 Sent: Thursday, March 25, 2021 2:09 PM
 To: Tim Carlson < Carlson@carlsonhinton.com>; Fruchter Daniel (USAWAE) <Daniel.Fruchter@usdoj.gov>
 Subject: RE: See Attached-Rick Gray

Tim,

Thank you for reaching out on this. We've calculated our costs resulting from the missed deposition. They are as follows:

- \$161.28 (Special Agent Jason Gonzalez's mileage (288 mile round trip from Richland times the 2021 federal mileage rate of \$0.56)
 - \$1,603.51 (Special Investigator Chris Treiber's travel costs from California)
 - \$171.00 (court reporter costs)
- TOTAL \$1,935.79

We will be filing a petition with the Court for these costs and need to know if Mr. Gray will be stipulating to paying those or if he will be contesting them.

Additionally, we intend to re-set the deposition date to Monday, April 12, 2021, at 9:00 am (once again at 920 W. Riverside, Spokane, WA) and will be filing a summary petition to enforce that date by court order. Please let us know if Mr. Gray will stipulate to that date so we can advise the Court.

We will need hear from you on the above no later than close of business tomorrow (Friday) as we intend to file our petition Monday. If we do not hear from you by close of business tomorrow (Friday) we will assume this matter will be contested and proceed accordingly.

Thank you
 Tyler



Tyler H.L. Tornabene
 Assistant U.S. Attorney
 United States Attorney's Office
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From: Tim Carlson < Carlson@carlsonhinton.com>
 Sent: Wednesday, March 17, 2021 5:13 PM
 To: Tornabene Tyler H.L. (USAWAE) <Tornabene@usa.doj.gov>; Fruchter Daniel (USAWAE) <Dfruchter@usa.doj.gov>
 Subject: RE: See Attached-Rick Gray

Gentlemen,

I am very sorry that the message did not get across that we would arrange to have been there in a cooperative manner. We will assure that an should set a time. Please let me know your availability so that we can schedule a telephone conference call. I appreciate your consideration of this. Thanks

Sincerely,

Tim Carlson

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From: Tornabene Tyler H.L. (USAWAE) <Tyler.H.L.Tornabene@usdoj.gov>
 Sent: Wednesday, March 17, 2021 3:28 PM
 To: Fruchter Daniel (USAWAE) <Daniel.Fruchter@usdoj.gov>; Tim Carlson < Carlson@carlsonhinton.com>
 Subject: RE: See Attached-Rick Gray

Tim,

Your client, Rick Gray, failed to show up today despite being properly served with Civil Investigative Demand No. EDWA 21-002 requiring his appearance at the Federal Building in Spokane today at 9:00 am. This is particularly concerning as you were also aware of the Civil Investigative Demand and your client's obligations to appear and did not notify us that he would not be appearing or request a continuance, causing us to incur significant travel and court reporter costs. Accordingly, we will be seeking an order compelling him to appear and costs from the Court which will include, at a minimum, the cost of the court reporter and the cost of the agents' travel.

Please also be advised that your client's failure to abide by his legal obligations, even with the benefit of your representation, requires us to set another date for his deposition and to secure a court order to further ensure his appearance.

Thank you

Tyler



Tyler H.L. Tornabene
 Assistant U.S. Attorney
 United States Attorney's Office
 Eastern District of Washington
 220 West Riverside Avenue | Suite 540
 P.O. Box 1424 | Spokane, WA 99201

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From: Fruchter, Daniel (USAWAE) <Dfruchter@usa.doj.gov>
Sent: Wednesday, March 10, 2021 1:35 PM
To: Tim Carlson <carlson@carlsonhinton.com>; Tornabene, Tyler H.L. (USAWAE) <tornabene@usa.doj.gov>
Subject: RE: See Attached-Rick Gray

No problem. Just let us know when you're available to chat or feel free to have your assistant get in touch with us via email or on my cell. We're on the road Thursday or Friday but we could possibly make some time for a call Thursday or Friday afternoon. Otherwise, Monday the 15th looks generally clear. Talk to you soon.

Dan



Daniel Hugo Fruchter
 Assistant United States Attorney
 United States Attorney's Office
 Eastern District of Washington
 220 West Riverside Avenue | Suite 540
 P.O. Box 1424 | Spokane, WA 99201

From: Tim Carlson <carlson@carlsonhinton.com>
Sent: Wednesday, March 10, 2021 1:26 PM
To: Fruchter, Daniel (USAWAE) <Dfruchter@usa.doj.gov>; Tornabene, Tyler H.L. (USAWAE) <tornabene@usa.doj.gov>
Subject: RE: See Attached-Rick Gray

Thanks for the email. The rest of my afternoon is booked solid. I would appreciate if you could call my assistant Brenda and arrange for a time when we could talk. I haven't even had a chance to discuss this with the Rick. I have to leave for a doctor's appointment right now. Probably won't be able to communicate with you the rest of the afternoon. Thanks

Sincerely

Tim Carlson

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From: Fruchter, Daniel (USAWAE) <Daniel.Fruchter@usdoj.gov>
Sent: Wednesday, March 10, 2021 1:24 PM
To: Tim Carlson <carlson@carlsonhinton.com>; Tornabene, Tyler H.L. (USAWAE) <Tyler.H.L.Tornabene@usdoj.gov>
Subject: RE: See Attached-Rick Gray

Tim that would be me and Tyler. Is there a good time this afternoon to chat – say 2 pm?

Dan



Daniel Hugo Fruchter
 Assistant United States Attorney
 United States Attorney's Office
 Eastern District of Washington
 220 West Riverside Avenue | Suite 540
 P.O. Box 1424 | Spokane, WA 99201

From: Tim Carlson <carlson@carlsonhinton.com>
Sent: Wednesday, March 10, 2021 1:22 PM
To: Donovan, Brian (USAWAE) <BDonovan@usa.doj.gov>; Fruchter, Daniel (USAWAE) <Dfruchter@usa.doj.gov>; Tornabene, Tyler H.L. (USAWAE) <tornabene@usa.doj.gov>
Subject: RE: See Attached-Rick Gray

Thanks Brian. Do I communicate with you as the attorney on this matter?

Sincerely

Tim Carlson

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From: Donovan Brian (USAWAE) <Brian.Donovan@usdoj.gov>
Sent: Wednesday, March 10, 2021, 1:20 PM
To: Fruchter, Daniel (USAWAE) <Daniel.Fruchter@usdoj.gov>; Tornabene, Tyler H.L. (USAWAE) <Tyler.H.L.Tornabene@usdoj.gov>
Cc: Tim Carlson <tjcarlson@carlsonhinton.com>
Subject: FW: See Attached-Rick Gray


Hi Dan and Tyler,

Please see the below email from Tim Carlson. Can you please respond to him to set up a time to discuss the attached CID? He is cc'd on this email.

Thanks,



Brian M. Donovan
Assistant United States Attorney
Coordinator, Asset Forfeiture and Financial Litigation Unit
United States Attorney's Office
Eastern District of Washington
220 West Riverside Avenue | Suite 240
P.O. Box 1484 | Spokane, WA 99201

From: Tim Carlson <tjcarlson@carlsonhinton.com>
Sent: Wednesday, March 10, 2021, 1:10 PM
To: Donovan, Brian (USAWAE) <BDonovan@usa.doj.gov>
Cc: bill.hyslop@
Subject: See Attached-Rick Gray

Brian

My client was served with the attached as part of a civil investigation under the False Claims Act. I recognize that Bill left office as of the end of the month of February. He signed this on February 24, 2021. My question is who I communicate with you in your office. While I admit it is probably not you, I wanted to make sure that I communicated with the right person was hopeful that you could point me in the right direction. I certainly appreciate any outreach you can give me regarding that. Thanks

Sincerely

Tim Carlson

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EXHIBIT 4

From: Tornabene, Tyler H.L. (USAWAE)
Sent: Wednesday, March 31, 2021 11:18 AM
To: Tim Carlson
Cc: Rick Gray; Fruchter, Daniel (USAWAE); Hoffman, Hilary (USAWAE) [Contractor]
Subject: CID No. EDWA 21-002: Direction to Appear on April 15th at 9:00

Tim,

Along the lines we discussed on Monday, this is our written direction to you and Mr. Gray that pursuant to Civil Investigative Demand No. EDWA 21-002 that Mr. Gray is to personally appear on April 15th, 2021, at 9:00 am at the Thomas S. Foley U.S. Courthouse, 920 W. Riverside Ave., Spokane, WA 99201, Room 116, to give oral testimony under oath. Room 116 is on the first floor and is commonly referred to as the GSA 1st Floor Conference Room. It is on the east side of the building and if necessary the Court Security Officers at the entrance to the building should be able to direct Mr. Gray, and whichever attorney accompanies him, to the conference room. Please be advised that to gain entry to the building Mr. Gray and any counsel who accompanies him will need to have valid government issued identification with them and will need to wear face masks and comply with all other COVID-19 safety requirements while on federal property.

Thank you,
Tyler



Tyler H.L. Tornabene
Assistant U.S. Attorney
United States Attorney's Office
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